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Statement by the Salesian Missions, a non-governmental organization in special consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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Statement

Legal empowerment of the poor: a bridge to social integration

1. More than 4 billion people do not have access to even the most basic legal protections. This finding of the Commission on the Legal Empowerment of the Poor (2008)[1] has wide ranging and serious implications for individuals and societies. It indicates that many citizens, especially women and children, who are often the most vulnerable and impoverished, are denied their most fundamental rights. As we address social integration at this session of the Commission for Social Development and recall the commitments of the world leaders to social inclusion in the Copenhagen Declaration (1994), the reality of social exclusion casts its shadow over the discussions. Four billion people are denied the most basic building blocks of participation in civil society: identity documents, property rights, labour rights and legal status for small enterprises.

2. The legal empowerment of the poor is an acknowledgement that societies are complex and that all people are entitled to full protection under the law. It also acknowledges the wisdom and skills of all members of a community and their potential for creating just and equitable societies that are free from want and fear. By utilizing the energy and creativity of all their members, communities can create a better, more prosperous, equal and humane world.

3. As noted by the Secretary-General in his report on the legal empowerment of the poor and eradication of poverty (A/64/133), "Legal empowerment of the poor is both a development strategy and a development objective. While its priorities should be set by the poor and for the poor, they should also be guided by human rights principles of equality and non-discrimination, participation and accountability".

4. Since national contexts differ so broadly, a single blueprint for accomplishing legal empowerment of the poor does not exist. However, certain key conditions and rules should guide implementation of legal empowerment. In the publication *Making the Law Work for Everyone*, the four key conditions for legal empowerment are given: identity, information, voice and organization; the five guiding rules are that the process should be bottom-up, affordable, realistic, liberating and risk aware.

Participation

5. The legal empowerment process must be based on the needs of those living in poverty as they themselves experience and express them. Reforms must be designed and implemented in an inclusive and participatory way, and geared towards helping those living in poverty to organize themselves.

6. Participation in a society is directly linked to trust in Governments and institutions that exercise authority in the society. Some of those living in poverty have come to believe, based on painful experiences, that the law is often used as a weapon against them. As a result, they seek to avoid any involvement with the legal system as it exists. The realities of corruption, repression and deep-seated prejudices act as barriers, preventing those living in poverty from seeking their rights through the legal system. Since poverty is also about a lack of power, those living in poverty

[1] Salesian Missions recommends the use of "those living in poverty" in place of "the poor".

can often feel powerless in a system they believe is not open to them or respectful of them. Educating those living in poverty about their rights and the protections of the law can do much to alleviate fear and increase access to legal systems.

7. The rule of law must be de jure and de facto available to everyone equally. Ease of access to justice, and safeguarding the rights of the most vulnerable and marginalized members of society can strengthen trust between a government and its peoples. Justice encourages even greater participation in decision-making and community building.

8. The Commission on Legal Empowerment of the Poor also pointed out that societal norms and customs can present challenges to legal empowerment.

> "Many societies and cultures have hierarchical and patriarchal power structures that make carrying out legal empowerment difficult. Involving the poor in decision-making and giving women equal rights may be particularly challenging. In some contexts, custom may run contrary to a vision of human rights enshrined in a national constitution, particularly where it comes to the treatment of women and minorities. A similar dilemma arises when attempting to ensure minimum levels of accountability and transparency within customary structures. Fortunately, customs are not rigid and unchanging. It is thus possible to aim at a process in which customary practices evolve in response to social development and human rights principles."

Good practices

9. The work of Patricia van Nispen tot Sevenaer in starting a microjustice initiative in Bolivia, with plans to expand into Peru and Colombia, serves as a model for good practice in legal empowerment, especially in helping establish legal identity. She noted that the World Bank has estimated that some 24 per cent of the Bolivian population, roughly 2.2 million people, lack identity documents, not including papers that have minor clerical errors that make them invalid and necessitate lengthy court cases. Without these documents, Bolivians are prohibited from going to school, opening savings accounts, utilizing public health services or receiving pensions. Lack of access because of lack of legal status is not limited to Bolivia. The United Nations Children's Fund (UNICEF) has noted that more than 70 per cent of children in the least developed countries do not have birth certificates or similar registration documents.

10. In a similar manner, the United Nations Development Programme (UNDP) has sponsored projects related to microjustice in 10 countries, thus addressing the legal needs of those living in poverty. Their initiatives in both Asia and Latin America establishing systems for legal empowerment of the poor are replicable.

11. Two other examples of civil society assisting those living in poverty — people pushed to the margins of society by lack of access to legal systems — are noteworthy: Stones of Hope, a collaboration among African human rights activists and human rights scholars to examine innovations in economic and social rights advocacy begun by Dr. Lucie White of Harvard Law School; and the work of the International Development Law Organization. Both organizations have facilitated access to the legal system and empowered those who live in poverty, especially in the area of the legal right to own property.

12. While non-governmental organizations and other civil society organizations have often responded to the immediate needs of those living in poverty and served as facilitators in the ongoing dialogue about legal empowerment with Governments and multinational organizations, the role of multilateral agencies in this work is becoming more apparent and necessary. Legal empowerment of the poor must be a multipartnered endeavour, a movement that is a collaboration of all the stakeholders in society and in the world community. Globalization does not allow us to remain in isolation.

Recommendations

13. We therefore recommend:

(a) Adopting strong policies and mechanisms to guarantee that all births be registered. Registering children born at home through local government offices, registrations of birth at time of vaccination in local clinics and facilitating the correction of inaccurate birth registrations of youths and adults are some mechanisms that can be utilized to guarantee legal identity;

(b) Facilitating the process for securing land titles and guarding the right to own property. Safeguarding the ownership of properties held in common through cultural agreements, as well as the right of women to inherit and own land must also be a priority;

(c) Following the suggestion of the Commission on Legal Empowerment of the Poor to appoint "defenders of the poor" at the local and international levels. The international community should decide that such defenders fall under the concept of human rights defenders as articulated in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (see *Making the Law Work for Everyone*, 2008);

(d) Reaffirming commitment No. 4 of the Copenhagen Declaration to promote human rights and fundamental freedoms and strengthen the human rights framework ratifying international legal instruments that promote poverty alleviation and social inclusion.

Note: The present statement has been endorsed and supported by the following non-governmental organizations in special consultative status with the Economic and Social Council: the Company of the Daughters of Charity of Saint Vincent de Paul, the Congregation of Our Lady of Charity of the Good Shepherd, the Congregation of St. Joseph, the Dominican Leadership Conference, the International Federation of Women Lawyers, the International Federation of Women in Legal Careers, the International Presentation Association of the Sisters of the Presentation, the School Sisters of Notre Dame, the Sisters of Mercy, the Sisters of Notre Dame de Namur, the Society of Catholic Medical Missionaries, UNANIMA International and Vivat International.